

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS**

FOR THE EMERGENCY MEDICAL SERVICES REGULATORY BOARD

In the Matter of the License
Application of the City of
Cloquet, d.b.a. Cloquet Fire
Department Ambulance,
Cloquet, Minnesota

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

The above-entitled matter came on for hearing before Administrative Law Judge Bruce H. Johnson at 7:00 p.m. on May 23, 1997, at Cloquet City Hall, 1307 Cloquet Avenue, Cloquet, Minnesota. The record in this matter closed on May 28, 1997, after the final affidavit of publication of the hearing notice was received by the Administrative Law Judge.

Cloquet Fire Chief Jim Langenbrunner appeared on behalf of the Cloquet Fire Department Ambulance Service (hereinafter the "Applicant"). Also appearing at the hearing and testifying for the record were Kenneth M. Ripp, M.D., the Applicant's medical director, and Lawrence R. Gustafson, City Administrator of the City of Cloquet.

No statements in opposition to the application were received either at the hearing or as part of the written record. The Emergency Medical Services Regulatory Board submitted a recommendation, pursuant to Minn. Stat. ' 144.802, subd. 3(e) (1996), that the Applicant's application to upgrade its license from basic to advanced ambulance service be approved, with certain conditions. (Exhibit I)

NOTICE

Pursuant to Minn. Stat. ' 144.802, subd. 3 (1996), this Order is the final decision in this proceeding . Notice is hereby given that any person aggrieved by the decision of the undersigned Administrative Law Judge is entitled to seek judicial review pursuant to Minn. Stat. " 14.63 to 14.69 (1996).

STATEMENT OF THE ISSUE

Whether the Applicant's application to upgrade its current license from basic ambulance service to advanced ambulance service should be granted.

Based upon the record in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On February 4, 1997, the Applicant submitted an application to the Emergency Medical Services Regulatory Board (hereinafter the "Board") to upgrade the type of service Applicant provides from basic life support ("BLS") to advanced life support ("ALS"). (Exhibit A)

2. By letter dated February 25, 1997, the Board requested the applicant to make two changes to the Applicant's advanced life support protocols. (Exhibit F) By letter dated March 17, 1997, the Applicant submitted to the Board copies of the modified advanced life support protocols, signed by the Applicant's medical director. (Exhibit G)

3. On March 26, 1997, the Board issued a Notice of Completed Application and Notice of and Order for Hearing in connection with the Applicant's application. That Notice was published in the State Register on April 7, 1997 (Exhibit O), in the Duluth News-Tribune on April 14 and 21, 1997 (Exhibit M), and in the Pine Knot/Billboard on April 16 and 23, 1997 (Exhibit N). Copies of the Notice were also mailed to the Administrative Law Judge, to the Carlton and St. Louis County Boards of Commissioners, to the local Community Health Board, the Governing Body of the Regional EMS System, and to ambulance services based in Carlton, St. Louis, Aitkin and Pine Counties. (Exhibit P)

4. On March 24, 1997, the Executive Committee of the Board, under authority delegated to it by the full Board, recommended approval of the Applicant's application, "with the proviso that the Applicant actively seek letters of recommendation and/or comment from the county boards of Carlton and St. Louis Counties, and the designated regional emergency medical services system for northeastern Minnesota." (Exhibit I)

5. The Applicant has actively sought letters of recommendation and/or comment from the county boards of Carlton and St. Louis Counties, and from the designated regional emergency medical services system for northeastern Minnesota. The Carlton County Board of Commissioners and the designated regional emergency medical services system both submitted letters recommending approval of the application. (Exhibits J and K) Although officials of Saint Louis County have orally indicated their support, that county board has not submitted a formal letter of support, notwithstanding the Applicant's efforts to obtain one. (Testimony of Jim Langenbrunner) The Applicant does have a mutual aid agreement with Gold Cross Ambulance of Duluth, the southern Saint Louis County ALS Provider. (Exhibit L)

6. Additional statements in support of the application have been received from the City of Cloquet (Exhibit C), Cloquet Community Memorial Hospital (Exhibit D), the Cloquet Fire Department Ambulance Service's medical director (Exhibit E), and the Carlton County Department of Emergency Management, the Thomson Township-Esko Volunteer Fire Department, the Carlton County Sheriff's Department, the Fond du Lac Reservation Business Committee, the City of Scanlon, Scanlon Fire & Rescue, and Town of Perch Lake. (Exhibit A)

7. The Applicant's Primary Service Area ("PSA") includes the cities of Cloquet, Scanlon and Esko in Carlton County and four townships in southern St. Louis County. There is currently no ALS provider within the Applicant's PSA. Although there are four ambulance services, including the Applicant, operating within Carlton County, none of them is currently an ALS provider. The Applicant has entered into a mutual aid agreement with the other three Carlton County services (Exhibit A), as well as with Virginia Ambulance Service (Exhibit B) and Gold Cross Ambulance of Duluth (Exhibit L), both of which are adjacent ALS providers. The Applicant has also entered into a written Air Transport Agreement with the St. Luke's/Life Link Helicopter Program (Exhibit A) and into an oral air transportation agreement with the St. Mary's/Duluth Clinic Health System. (Testimony of Jim Langenbrunner)

8. The Applicant's PSA is located within Carlton and southern St. Louis Counties, both of whose needs for emergency medical services are covered by the Carlton-Cook-Lake-St. Louis County Community Health Plan for 1996 - 1999. (Relevant excerpts from that Plan are found in Exhibit A.) That community health plan has identified public health issues and problems through a public assessment process, and it establishes a number of community health objectives for Carlton and St. Louis Counties. Three of those objectives are: (a) reducing the number of deaths due to unintentional injury by 10%; (b) reducing mortality and morbidity associated with major coronary incidents; and (c) and reducing the time at which medical intervention occurs for both kinds of incidents to no more than 30 minutes. (Exhibit A; Testimony of Jim Langenbrunner and Dr. Kenneth Ripp) Having ALS capability available in the Applicant's PSA will also enhance capabilities to deal with other public health problems identified in the Community Health Plan, such as disease and injuries attributable to alcohol abuse, child abuse, and violence. (Exhibit A) The Applicant's application specifically addresses those three public health objectives, and the Board has found, and the Administrative Law Judge concurs, that the application is entirely consistent with the other goals and objectives contained in that Community Health Plan. (Exhibits A and I)

9. With the exception of the St. Louis County Board of Commissioners, the governing bodies of the major political subdivisions within the Applicant's PSA submitted comments supporting the Applicant's application and made recommendations that it be approved. (Exhibits A, C, and K) The Applicant made reasonable efforts to elicit the comments and recommendations of the St. Louis County Board of Commissioners, and there is no evidence to suggest that governing body's formal

written response would be unfavorable or unsupportive of the application. The informal responses of officials of St. Louis County have all been supportive. (Testimony of Jim Langenbrunner) The regional emergency medical services system designated under Minn. Stat. ' 144.8093 (1996) conducted a thorough review of the application, and that body supports the application and recommends that it be approved. (Exhibit J) Letters of support were also received from numerous public safety and emergency medical services in Carlton and southern St. Louis County. (Exhibits A, C and D)

10. Determination Number PSA-7-95-MDH made on December 12, 1995 by the Minnesota Commissioner of Health resolved all PSA overlap and dispatch issues between the Applicant and Gold Cross Ambulance of Duluth, an adjacent provider of ALS services in southern St. Louis County. The Applicant is the sole provider of emergency ambulance service within its designated PSA. (Exhibit I) In fact, the Applicant has entered into mutual aid agreements with Gold Cross Ambulance of Duluth (Exhibit L) and with emergency medical service providers in other adjacent or nearby PSAs (Exhibits A and B). Those mutual aid agreements cover and resolve such issues as the rendering of mutual assistance, command and control and allocation of costs in cases of joint operations, communications and reciprocity of assistance. (Exhibits A, B, and L)

11. At its present level of service, the Applicant experiences significant limitations in its ability to provide adequate life support medical care in many situations where such care would be a significant factor in reducing mortality and morbidity among patients within the Applicant's PSA. (Testimony of Jim Langenbrunner and Dr. Kenneth Ripp) Making advanced life support procedures, such as defibrillation, pharmacological intervention, advanced airway procedures, and fluid resuscitation available at the scene or during transport to a medical facility means initiation of advanced care sooner and better outcomes for patients suffering from such conditions such as trauma, heart attack and cardiac arrest, overdoses of controlled substances, stroke, serious episodes of mental and behavioral disorders etc. (Testimony Dr. Kenneth Ripp) Through the use of intercept agreements, those public health benefits will be extended to residents of neighboring PSAs where ALS services are not yet available. (Exhibit A)

12. Air transportation to major trauma centers in Duluth is currently the only option for patients requiring ALS services during transportation from the Applicant's and several other neighboring PSAs. Those services are not, however, available when weather and other conditions interfere with air operations or when aircraft are unavailable. Applicant's ALS services will partially fill those gaps by providing alternative means for performing ALS services while patients are being transported to major trauma centers.

13. Advanced life support services are generally more expensive than basic life support services because personnel require a higher level of training and because of the need for more sophisticated equipment. Currently, the base rate for the Applicant's services is \$250, with an average charge of about \$330. If the application is granted, the Applicant will charge base rates of \$525, \$625, or \$725, depending on the

sophistication of patient needs. As is currently the case, patients will only pay for other disposable items required to treat specific conditions on an as-needed basis. (Exhibit A; Testimony of Jim Langenbrunner) The proposed cost of the new advanced ambulance services is not unreasonable when compared with other, similar advanced ambulance services. (Exhibit I)

14. But there are also certain financial benefits that can be expected to offset to some extent any increases in aggregate costs. Having ALS services available at the scene is likely to reduce the total numbers of transports to medical facilities and, therefore, reduce unnecessary hospitalizations. (Exhibit A; Testimony of Jim Langenbrunner) Like many other regions of Minnesota, there is an aging population within the Applicant's PSA. Approval of the application is also likely to reduce the cost of caring for some elderly residents by permitting some types of medical care to be administered to them in their homes, thereby further reducing potential hospitalizations and allowing greater numbers of elderly residents to be cared for in their home rather than more costly residential care facilities. (Testimony of Jim Langenbrunner) Finally, by reducing morbidity the availability of ALS services will reduce the total cost of care for many patients.

15. Members of the public in the Applicant's PSA were advised of the costs associated with the proposed upgrade in services through proceedings of the Cloquet City Council, through articles in local newspapers, and through programming on local radio stations and on public access television. The City of Cloquet reported that it had received no negative comments from members of the public but had received numerous favorable comments. (Testimony of Lawrence R. Gustafson)

16. Any Finding more properly termed a Conclusion is hereby adopted as such.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge has jurisdiction of this matter pursuant to Minn. Stat. ' 144.802 and " 14.50, et seq. (1996).

2. Proper notice of the Applicant's application and of the hearing were given in full compliance with the provisions of Minn. Stat. ' 144.802, subd. 3 (1996).

3. The Notice of Completed Application and Notice of and Order for Hearing was in proper form and content, and the Board and Applicant have complied with all relevant substantive and procedural requirements of statute and rule.

4. The Applicant has met the conditions specified by the Board when it recommended that the application be approved.

5. Under Minn. Rules, pt. 1400.7300, subp. 5 (1995), the Applicant has the burden of proving by a preponderance of the evidence that an upgraded license is needed and will not have a deleterious effect on public health. In the Matter of Rochester Ambulance Service, 500 N.W.2d 495, 498-99 (Minn. App. 1993).

6. Minn. Stat. ' 144.802, subd. 3(h) (1996) provides in part:

(h) The administrative law judge shall review the application and shall forward a decision and order as to its disposition to the board within 90 days of receiving notice of the application. In making the decision, the administrative law judge shall consider and make written comments as to whether the proposed service, change in base of operations, or expansion in primary service area is needed, based on consideration of the following factors:

(1) the relationship of the proposed service, change in base of operations or expansion in primary service area to the current community health plan as approved by the commissioner of health under section 145A.12, subdivision 4;

(2) the recommendations or comments of the governing bodies of the counties, municipalities, and regional emergency medical services system designated under section 144.8093 in which the service would be provided;

(3) the deleterious effects on the public health from duplication, if any, of ambulance services that would result from granting the license;

(4) the estimated effect of the proposed service, change in base of operation or expansion in primary service area on the public health;

(5) whether any benefit accruing to the public health would outweigh the costs associated with the proposed service, change in base of operations, or expansion in primary service area.

7. The ALS ambulance service license the Applicant proposes to obtain is consistent with the Carlton-Cook-Lake-St. Louis County Community Health Plan for 1996 - 1999, and the proposed license upgrade will assist those counties in meeting or exceeding that Plan's goals and objectives.

8. With the exception of the St. Louis County Board of Commissioners, the governing bodies of the counties and of most of the other political subdivisions within the Applicant's PSA submitted written comments and recommendations that were favorable to the proposed upgrade in license and recommended its approval. The St. Louis County Board of Commissioners did not interpose any objection to granting the upgraded licensure. After a thorough review, the regional emergency medical services system designated under Minn. Stat. ' 144.8093 (1996) recommended approval of the Applicant's application.

9. Since the Commissioner of Health has taken action to eliminate any overlaps of service with other providers within the Applicant's PSA, the Applicant will be the sole provider of ambulance services within its PSA, and persons within that PSA will be adequately served without duplication of services. Granting the Applicant's ALS license will therefore not result in any deleterious effects on the public health from duplication of ambulance services.

10. The estimated effects of the proposed service on the public health in the Applicant's PSA and adjacent PSAs will include, among other things: (a) reducing mortality and morbidity in patients suffering from traumatic injuries and diseases, such as serious vascular disease, cerebrovascular disease, chemical dependency, and mental illness; (b) reducing unnecessary hospitalizations by making a number of paramedical services available to patients at the scene; (c) allowing a greater number of elderly residents of the Applicant's PSA to be cared for in their homes rather than in more costly residential facilities; and (d) through intercept agreements with neighboring BLS providers, making public health benefits such as some of those described above available to residents of neighboring PSAs.

10. The benefits that will accrue to the public health of citizens in the Applicant's PSA and in neighboring PSAs will outweigh the costs associated with the upgrading of the Applicant's license to the ALS level.

11. There is a need for ALS services in the Applicant's PSA, and providing those services is in the public interest.

12. Any Conclusion more properly termed a Finding is hereby adopted as such.

Based upon the foregoing Conclusions, the Administrative Law Judge make the following:

ORDER

IT IS HEREBY ORDERED that the Minnesota Emergency Services Regulatory Board GRANT the Cloquet Fire Department Ambulance Service's application for an advanced life support ambulance service license for its Primary Service Area.

Dated this 30th day of May 1997.

BRUCE H. JOHNSON
Administrative Law Judge

Reported: Tape Recorded (one tape)